IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 36084 of 2007(U)

AGAINST THE ORDER DATED 03/10/2007 IN IA 1054/2007 IN OS.226/2003 of MUNSIFF COURT, PAYYANNUR

.....

PETITIONER:

KARALA BALKRISHNAN, AGED 70 YEARS,
S/O.RAMAN, CHEMMRATHI ERMAM AMSOM,
MATHAMANGALAM DESOM, TALIPARAMBA TALUK,
KANNUR DISTRICT.

BY ADV. SRI.P.R.SREEJITH

RESPONDENT:

K.B.BALAKRISHNAN, S/O.CHEERUKANDAN,
PARIYARAM AMSOM DESOM, KANNUR DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

M.N. KRISHNAN, J.

= = = = = = = = = = = = = = =

W.P.C. NO. 36084 OF 2007

= = = = = = = = = = = = = = =

Dated this the 6th day of December, 2007.

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, Payyannur in I.A.1054/07 in O.S.226/03. It was an application to remit the Commissioner's plan and report. A perusal of the application for remittance would reveal that really the plaintiff is concerned with the income and other aspects assessed by the Commissioner in his report. A perusal of that would show that the Commissioner had found the market value of the property is at Rs.8,56,800/-. If it is true and the plaint is amended, naturally the Munsiff Court will not have any jurisdiction to decide the issue. But it only comes at a later stage. Parties can be permitted to adduce evidence in support of their contentions against the Commissioner's plan and report and the Court on satisfaction of the same pass an order fixing the market value. If at that stage the Court feels that a relook into the matter by the

Commissioner is necessary such a direction also can be given to the Court by the Commissioner for ascertaining the value or testing the correctness of what he has reported. Therefore, I dispose of the writ petition as follows.

(1) The plaintiff as well as the defendant be permitted to file objection to the Commissioner's plan and report and both parties be permitted to adduce evidence in support of their respective contentions and the Court to take a decision on the same.

(2) If, after adducing of evidence by the parties, the Court feels that additional particulars are necessary or it requires some correction the Court can direct the Commissioner to furnish a further report by the Commissioner and the earlier order will not stand in the way for doing the same.

(3) Only after the Court fixes the valuation it can direct the plaintiff to amend the plaint and when the plaint is amended and if it exceeds the pecuniary jurisdiction of the

Court, then the Court will pass an order returning the plaint for proper presentation before appropriate Court.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

ul/-